

## Department of the Army, DoD

## §513.4

(ii) Of the corrective action taken (to include the amounts and dates payments will be made).

(iii) Of the method of payment (for example, personal check).

(iv) Whether the soldier allowed or forbade release of the information given. (See DA Form 4817-R.)

(v) Whether the soldier is following the terms of a court order.

(vi) Whether the soldier's actions follow Army policy as stated in this regulation.

(vii) In the reply, include your name, unit address, and your automatic voice network (AUTOVON) number. If no AUTOVON Number is available, include a commercial or other number where the unit can be reached.

(5) Return to USACFSC or DA officials inquiries received after the soldier has been transferred. Include a copy of his or her permanent change of station orders.

[51 FR 7270, Mar. 3, 1986; 51 FR 8824, Mar. 14, 1986]

### §513.3 Administrative and punitive actions.

(a) *Considerations.* Commanders will not tolerate irresponsibility, neglect, dishonesty, or evasiveness. Failure to pay debts promptly and honorably may require disciplinary or administrative action. If a soldier is not trying to resolve unpaid debts promptly or complaints of repeated failure to pay debts are received, commanders will consider—

(1) Making it a matter of permanent record (§513.3(b)).

(2) Denial of reenlistment (enlisted members) (AR 601-280).

(3) Administrative separation from the Service (AR 635-100 or AR 635-200).

(4) Punishment under the UCMJ. (See §513.1(e)(7).)

(b) *Official personnel files.* (1) The Army requires that all-inclusive information of the qualifications of its soldiers be on file. This prevents selection of soldiers for positions of leadership, trust, and responsibility whose qualifications are questionable.

(2) Documents/records created or received in connection with debt complaints will be filed per AR 600-37 and the Army Functional Files System (AR 340-2 and AR 340-18).

(3) The soldier may show his or her negligence, disregard, or unwillingness to resolve the matter by repeatedly failing to pay his or her debts. In these cases, the commander will decide whether to place a letter of reprimand, admonition, or censure in the soldier's official personnel files. AR 600-37, chapter 2, governs action taken to file unfavorable information.

(4) If information does not merit filing in the soldier's official personnel files, the commander will—

(i) Continue to monitor the situation.

(ii) Furnish further guidance and help.

(iii) Consider later action (§513.3(b)(3)) if warranted by further evidence.

### §513.4 Conditions creditors must meet before getting help in debt processing.

(a) *Statutory and other regulatory requirements.* (1) The Truth-in-Lending Act, Pub. L. 90-321 (15 U.S.C. 1601), lists the general disclosure rules that must be met by creditors. It does not cover private parties who extend credit only rarely to help a person. (See §513.4(f)(1)).

(2) Federal Reserve Board Regulation Z (12 CFR part 226) lists specific disclosure rules for all credit transactions under the Truth-in-Lending Act.

(3) Certain States have rules that may apply to credit transactions in lieu of Federal Reserve Board Regulation Z. However, the Federal Reserve Board must first decide if the State sets largely the same rules and enforcement measures. States currently exempted from Regulation Z are Connecticut, Maine, Massachusetts, Oklahoma, and Wyoming.

(4) DOD Standards of Fairness (app B) define fair and just dealings with soldiers. DA Pam 360-520, chapter 4, contains simplified explanations of these standards. Note that certain debt complaints are exempt (§513.4(f)).

(5) Certificate of Compliance certifies the creditor has complied with the full disclosure requirements of Federal or State laws and regulations, State laws regarding contact with the employer of the debtor, and the application of the Standards of Fairness to the consumer credit transaction.

## §513.4

## 32 CFR Ch. V (7-1-08 Edition)

(6) Full disclosure information shows what the soldier should know about contract terms.

(7) The Fair Debt Collection Practices Act contains other conditions a creditor must meet. (See §513.1(g)).

(b) *State laws.* Florida, Louisiana, Maryland, Massachusetts, New York, North Carolina, and Wisconsin have passed laws that forbid creditors from contacting employers. This includes commanders, unless certain conditions are met. These conditions are the reduction of a debt to court judgment or the written permission of a debtor. The judgment must conform to the Soldiers' and Sailors' Civil Relief Act of 1940, as amended (50 U.S.C. app. section 501 *et seq.*, (1970)) if applicable. (See DA Pam 27-166.) Other States may enact similar laws; if they do, the same conditions will apply. Creditors wanting to make use of the debt processing privilege must first certify their compliance with the relevant State's law about contact with an employer. These laws, however, do not apply if the debtor is located in a State that has not passed such a law.

(c) *Debt processing.* (1) Creditors, other than private parties described in 513.4(f)(1), must send—

(i) A signed copy of the Certificate of Compliance with DOD Standards of Fairness (app B) showing compliance with one of the following:

(A) The Truth-in-Lending Act.

(B) Federal Reserve Board Regulation Z.

(C) State regulations.

(ii) A true copy of the signed contract.

(iii) The general and specific disclosure information given the soldier before signing the contract.

(iv) A copy of a judgment or written permission from the soldier allowing the creditor to contact his or her employer about the debt, if applicable. (See §513.4(b)).

(v) Photocopies of actual correspondence or documentary proof showing that every effort has been made to get payment by direct contact with the soldier. The creditor must give the soldier a chance to answer each inquiry. (Forty-five days for those in the contiguous 48 States and the District of Columbia; 60 days for all others.)

(2) Foreign-owned companies having debt complaints must send—

(i) A true copy of the terms of the debt.

(ii) A certification that they have met the DOD Standards of Fairness.

(iii) An English translation of the above (if not already in English).

(iv) Documentation as in §§513.4(c)(1)(iv) and (v).

(3) Creditors not subject to Regulation Z, such as public utility companies, will send a certification with their request. It must state that no interest, finance charge, or other fee exceeds that permitted by the laws of the State in which the service was requested.

(4) Creditors not subject to the Truth-in-Lending Act must send—

(i) Legible copies of actual correspondence. (See §513.4(c)(1)(v)).

(ii) Documentary proof showing that every effort has been made to get the payment by direct contact with the soldier.

(5) Creditors who have followed these terms may contact the soldier's commander for help. If the commander is contacted, the creditor must give the commander a chance to answer the inquiry. (Forty-five days for those in the contiguous 48 States and the District of Columbia; 60 days for all others.) If unsuccessful, after reasonable efforts to collect the debt, creditors may request help from USACFSC. In such cases, the information must be the same as that sent the commander. (See §513.4(c)(6)). The request should be sent to the Commander, USACFSC, ATTN: DACF-IS-PA, ALEX VA 22331-0522.

(6) All requests for help must include—

(i) The soldier's full name, rank, and SSN.

(ii) Date and place of birth, if SSN is not known.

(iii) The amount and date of the original debt.

(iv) The terms of payment.

(v) The balance due.

(vi) Documents described in §513.4(c)(1) through (4) which apply.

(7) Separate letters should be written on each account for prompt and efficient processing.

(8) Letters lacking data will be returned for added documents.

## Department of the Army, DoD

## §513.4

(d) *Debt complaints returned to creditors without action.* Requests for help in processing debt complaints will be returned without action with an explanation if—

(1) Creditors did not enclose the following:

(i) Documents showing compliance with the Truth-in-Lending Act, Federal Reserve Board Regulation Z, or State regulation.

(ii) Signed copies of the Certificate of Compliance with DOD Standards of Fairness.

(iii) A completed copy of form with the Full Disclosure Information. (See §513.4(a)(6).)

(iv) Signed copies of the contract.

(v) Legible copies of actual correspondence or documentary proof showing that every effort has been made to get the payment by direct contact with the soldier. (See §513.4(c)(1)(v).)

(2) The soldier is located in a State whose laws forbid creditors from contacting employers.

(3) The claim is obviously false or misleading.

(4) The finance charge does not conform to the State law where the contract is signed.

(5) A U.S. company operating overseas exceeds the lowest interest rate of the State or States where chartered or doing business in the United States.

(6) The contract or loan agreement provides that the debtor must pay the creditor's attorney fees, unless the following limitations in §513.4(d)(6) (i) through (iii) are included. No attorney's fee may be charged for services done by a salaried employee of the creditor.

(i) The fees will have to be paid only in the event of a default by the soldier.

(ii) The fees will have to be paid only if a lawsuit is filed.

(iii) The fees will not exceed 20 percent of the amount found due.

(7) A penalty for prepayment has been charged.

(8) A charge has been made for an insurance premium without satisfactory proof of—

(i) A policy or insurance certificate having been issued.

(ii) Delivery of a policy or certificate to the soldier within 30 days of issuance.

(9) The late charge is in excess of 5 percent of the late payment, or \$5, whichever is the lesser amount. Only one late charge may be made for any late installment. Late charges will not be made where an allotment has been timely filed, but payment has been delayed.

(10) The creditor has not given the soldier a chance to answer a previous inquiry. (Forty-five days for those in the contiguous 48 States and the District of Columbia; 60 days for all others.)

(11) The claimant is a debt collector without a court order or a signed letter of consent by the soldier. (See §513.1(g).)

(12) The debt is covered by an order of a bankruptcy court.

(e) *Cancellation of debt processing privilege.* (1) Creditors who refuse or fail repeatedly to follow these terms will be referred through channels to the Commander, USACFSC, Attn: DACF-IS-PA, Alex, Va 22331-0522, by the commander.

(2) The CG, USACFSC will—

(i) Cancel debt processing privileges if the queries clearly show that the creditor is—

(A) Not conforming with this regulation.

(B) Trying to make unreasonable use of the debt processing privilege.

(C) Trying to use the Army as a collection agency.

(ii) Inform commanders worldwide by electrical message that the debt processing privilege of a specific creditor has been revoked.

(iii) Inform the creditor that his or her debt processing privilege has been revoked and state the reasons for this action.

(f) *Exemptions from Full Disclosure and Standards of Fairness.* The debt complaints discussed below are exempt from the Full Disclosure and Standards of Fairness. This does not prevent the debtor from questioning service charges and negotiating a fair and reasonable settlement.

(1) Claims from private parties selling personal items (for example, car,

## §513.5

## 32 CFR Ch. V (7-1-08 Edition)

furniture, appliances) on a one-time basis.

(2) Claims from companies or individuals giving services in which credit is given only to help the soldier (for example, utilities, milk, laundry, medical, and related services).

(3) Claims by endorsers, comakers, or lenders who intend only to help the soldier in getting credit. These claims, however, may not benefit the above through receipt of interest or otherwise.

(4) Contract for the purchase, sale, or rental of real estate.

(5) Claims in which the total unpaid amount does not exceed \$50.

(6) Claims based on a revolving or open-end credit account. The account must show—

(i) The periodic interest rate and the equivalent annual rate.

(ii) The balance to which the interest is applied to compute the charge.

(7) Claims as security liens on real property (for example, a house). This does not include improvements or repairs.

(8) Attorneys representing parties under §513.4(f) (1) through (7).

### **§513.5 Procedures governing non-active duty or discharged personnel.**

(a) *Procedures governing nonactive duty personnel.* (1) Debt complaints against former soldiers or others not on active duty will be sent to the Commander, U.S. Army Reserve Personnel Center (ARPERCEN), ATTN: DARP-PSE-VS, 9700 Page Boulevard, St. Louis, MO 63132-5200.

(2) After ARPERCEN verifies the status, the following officials will act as prescribed below.

(i) Chief, National Guard Bureau, Wash DC 20310-2500, for soldiers of the Army National Guard.

(ii) The area commander concerned for Ready Reservists assigned to troop program units under their control. (See AR 140-1, para 1-6.)

(iii) ARPERCEN for nonunit soldiers assigned to Control Groups of the Ready Reserve, Standby Reserve, and Retired Reserve.

(3) The officials cited in §513.5(a)(2) will ensure that debt complaints are delivered to the person concerned,

using military channels. When the complaint cannot be delivered through military channels, it will be sent to the last known mailing address of the person by certified mail, using PS Form 3811 (Return Receipt, Registered, Insured, and Certified Mail). It should be marked Return Receipt Requested—Deliver to Addressee Only. This form is available at U.S. post offices.

(4) After delivery of correspondence, the responsible official will advise the claimant—

(i) Of the date and method of delivery.

(ii) That the military department does not control the personal affairs of nonactive duty personnel. These personnel usually are in a civilian status and are not subject to military discipline. Therefore, the matter has been left to the person's discretion.

(iii) Of the person's mailing address only if the conditions in §513.5(c) are met.

(b) *Procedures governing discharged personnel.* (1) Debt complaints against persons who have been discharged from the service (that is, those now holding no military status) will be sent to ARPERCEN.

(2) ARPERCEN will return the correspondence, and all accompanying documentation, and advise the claimant—

(i) That the person is no longer a member of the Army or the Reserve Components.

(ii) Of the date of discharge.

(iii) That the Army no longer has control or authority over the discharged personnel. Therefore, the Army can take no further action in this matter.

(iv) Of the person's mailing address only if the conditions in §513.5(c) are met.

(c) *Conditions for disclosing mailing address.* Nonactive duty and discharged personnel's mailing addresses will not be disclosed unless—

(1) The person consents in writing to the release of his or her address.

(2) The claimant sends a court order directing the release of the address.

(3) Any other reason that does not constitute a violation of the Privacy Act of 1974.